

<b>Notice of Allowability</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/884,465	HAMEL ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Vanessa L. Ford	1645	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--**

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 1 June 2005.
2. ☒ The allowed claim(s) is/are 18, 19, 25 and 34-36.
3. ☒ The drawings filed on 12 August 2003 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☐ All    b) ☐ Some\*    c) ☐ None    of the:
    1. ☐ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.  
**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
  6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
    - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
      - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
    - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).**
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

- |  |  |
|--|--|
| 1. <input type="checkbox"/> Notice of References Cited (PTO-892)   | 5. <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)            |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 6. <input type="checkbox"/> Interview Summary (PTO-413),<br>Paper No./Mail Date _____. |
| 3. <input checked="" type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08),<br>Paper No./Mail Date <u>1-3-02, 4-1-03, 8-12-03 &amp; 7-5-05</u> | 7. <input type="checkbox"/> Examiner's Amendment/Comment                               |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit<br>of Biological Material   | 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance   |
|  | 9. <input type="checkbox"/> Other _____.   |

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### ALLOWANCE

1. This Office Action is responsive to Applicant's remarks in the Appeal Brief filed June 1, 2005. All rejections of record are withdrawn in view of Applicant's amendment and remarks. Claims 18-19, 25 and 34-36 are allowed. The claims have been renumbered as claims 1-6.

2. The following is an examiner's statement of reasons for allowance. The prior art cited neither teaches nor suggests an isolated polypeptide having the amino acid sequence of SEQ ID NO:332 or a polypeptide having at least 85% sequence similarity to SEQ ID NO:332 wherein the polypeptide elicits an immune response when administered to an individual. The cited prior art does not teach or disclose a vaccine comprising an isolated polypeptide having the amino acid sequence of SEQ ID NO:332 or a polypeptide having at least 85% sequence similarity to SEQ ID NO:332. The prior art cited neither teaches nor suggests a method of treating or preventing *Streptococcus pneumoniae* infection in an animal comprising administering to the animal a therapeutically or prophylactically effective amount of a vaccine composition comprising an isolated polypeptide having the amino acid sequence of SEQ ID NO:332 or a polypeptide having at least 85% sequence similarity to SEQ ID NO:332.


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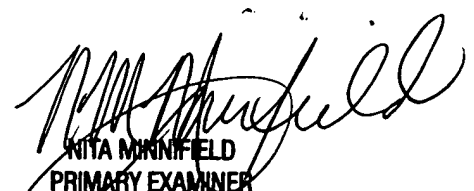
3. Any inquiry of the general nature or relating to the status of this general application should be directed to the Group receptionist whose telephone number is (703) 308-0196.

Papers relating to this application may be submitted to Technology Center 1600, Group 1640 by facsimile transmission. The faxing of such papers must conform with the notice published in the Office Gazette, 1096 OG 30 (November 15, 1989). Should applicant wish to FAX a response, the current FAX number for the Group 1600 is (703) 872-9306.

Any inquiry concerning this communication from the examiner should be directed to Vanessa L. Ford, whose telephone number is (571) 272-0857. The examiner can normally be reached on Monday – Friday from 9:00 AM to 6:00 PM. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lynette Smith, can be reached at (571) 272-0864.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov/>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Vanessa L. Ford  
Biotechnology Patent Examiner  
August 20, 2005

  
NITA MINNIFIELD  
PRIMARY EXAMINER  
8/22/05

### CLEAN COPY OF CLAIMS

1. An isolated polypeptide having the amino acid sequence of SEQ ID NO:332 or a polypeptide having at least 85% sequence similarity to SEQ ID NO:332 wherein the polypeptide elicits an immune response when administered to an individual.
2. An isolated polypeptide which has the amino acid sequence of SEQ ID NO:332.
3. A vaccine composition comprising a polypeptide according to claim 1 and a pharmaceutically acceptable carrier, diluent or adjuvant.
4. A vaccine composition comprising a polypeptide according to claim 2 and a pharmaceutically acceptable carrier, diluent or adjuvant.
5. A method of treating or preventing *Streptococcus pneumoniae* infection in an animal comprising administering to the animal a therapeutically or prophylactically effective amount of a vaccine composition according to claim 3.
6. A method of treating or preventing *Streptococcus pneumoniae* infection in an animal comprising administering to the animal a therapeutically or prophylactically effective amount of a vaccine composition according to claim 4.